



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,700	01/07/2005	Ralf Neuhaus	2002P10203WOUS	5200
7590	12/26/2007		EXAMINER	
Siemens Corporation Intellectual Property Department 170 Wood Avenue South Iselin, NJ 08830			KIM, TAE K	
			ART UNIT	PAPER NUMBER
			2153	
			MAIL DATE	DELIVERY MODE
			12/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/520,700	NEUHAUS ET AL.	
	Examiner	Art Unit	
	Tae K. Kim	2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on August 23, 2007.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-29 is/are pending in the application.
4a) Of the above claim(s) 1-11,21,22,26 and 27 is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 12-20, 23-25, 28, and 29 is/are rejected.
7) Claim(s) _____ is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 01/07/2005 is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 01/07/05.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ .
5) Notice of Informal Patent Application
6) Other: ____ .

DETAILED ACTION

This is in response to the Applicant's response filed on August 23, 2007. Claims 1 – 11, 21, 22, 26, and 27 have been cancelled by the Applicant. Claims 12 - 20, 23 - 25, 28, and 29, where Claims 12, 18, and 25 are in independent form, are presented for examination.

Priority

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 10/520700, filed on January 7, 2005.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on January 7, 2005 was filed after the mailing date of the U.S. national PCT application on January 7, 2005. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Specification

The Applicant has amended the abstract to correct spelling and grammatical errors.

Claim Objections

With regards to the amendments made to Claims 12, 15 – 20, and 25 to clarify the claim language, examiner has withdrawn the objections to Claims 12, 15 – 20, and 25.

With regards to the objections of Claims 21 and 26, Applicant has cancelled the claims. The examiner has withdrawn the objections to Claims 21 and 26.

Response to Arguments

Applicant's arguments filed August 23, 2007 have been considered but they are not persuasive. Application argued:

- a) Rangarajan fails to mention or imply the initiating a comparison of information by one of the components to compare release information of software controlling the service on each of the identified components when providing the identical software-controlled service;
- b) Rangarajan fails to mention or imply identifying at least some of the components providing the identical software-controlled service in the communication network;
- c) Rangarajan fails to mention or imply initiating a software update for one component when a comparison identifies that the release on said one component is different from the release on another of the components;
- d) Rangarajan fails to mention or imply activating or updating software pertaining to the identical service in a second of the communication components by downloading software pertaining to the identical service from the first communication component to the second communication component;

e) Rangarajan, in view of Gnutella Protocol Specification, fails to mention or imply that "servents" can provide upgrades to software.

Examiner respectfully disagrees with applicant's assertions.

1. With regards to a), examiner maintains that Rangarajan mentions or implies the step of initiating a comparison of information by one of the components to compare release information of software controlling the service on each of the identified components when providing the identical software-controlled service. Rangarajan states the method of updating software ascertains whether or not the software on a component is an older version and, therefore, initiates a comparison of the release software on the component (Pg. 6, Lines 11-25). Furthermore, to determine if the software is older, the components that have that software must be identified for the comparison to be completed.
2. With regards to b), examiner maintains that Rangarajan mentions or implies the step of identifying at least some of the components providing the identical software-controlled service in the communication network. Rangarajan states the method of updating software ascertains whether or not the software on a component is an older version and, therefore, initiates a comparison of the release software on the component (Pg. 6, Lines 11-25). To determine if the software is older, the components that contain such software must be identified for the comparison to be performed.
3. With regards to c), examiner maintains that Rangarajan mentions or implies the step of initiating a software update for one component when a comparison identifies that

the release on said one component is different from the release on another of the components. Rangarajan states that once it is ascertained that the version of software is older than the upgrade version, the software is executed and the files that are identified as having been upgraded will be downloaded from the file server (Pg. 6, Lines 11-25).

4. With regards to d), examiner maintains that Rangarajan mentions or implies the step of activating or updating software pertaining to the identical service in a second of the communication components by downloading software pertaining to the identical service from the first communication component to the second communication component. Rangarajan states that once it is ascertained that the version of software is older than the upgrade version, the software is executed and the files that are identified as having been upgraded will be downloaded from the file server (Pg. 6, Lines 11-25). To update software on one component from another component without installing the entire software requires that both components contain files of the same software. It is clear that the components in Rangarajan are operating the same software-controlled services since an alternate embodiment of Rangarajan allows one component to run an application that does not have the all the necessary files by retrieving those files from another component (Pg. 5, Lines 12-26).

5. With regards to e), examiner maintains that Rangarajan, in view of Gnutella Protocol Specification, mentions or implies that "servents" can provide upgrades to software. Rangarajan states that the software files are downloaded from a component that contains the updated files to a component that has the older files of the same

software (Pg. 6, Lines 11-25). Gnutella states that "servents" are components that have the functionality of both a client and a server (Pg. 1, Lines 2-4). The server functionality in a "servent" allows other components within the network to have access to files stored within it and those files can be downloaded from the "servent" to update software on another component (Pgs. 6-7).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12 - 16, 18 – 20, 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by PCT Application WO/55740, filed by Rangarajan et al. (hereinafter referenced as “Rangarajan”).

1. Regarding Claim 12, Rangarajan discloses a method for updating services in a communication network containing multiple communication components which use and provide the services in the network (Pg. 3, Lines 1-12; Pg. 6, Lines 11-13; two or more components within a network using and providing services) comprising of providing an identical software-controlled service with a plurality of the components (Pg. 9; two or more components can be running the same game application), identifying at least some of the components providing the identical software-controlled service in the communication network (Pg. 6, Lines 11-25; Pg. 7, Lines 1-5; the upgrade agent is downloaded to that component and thus identifies the component(s) that provide the

identical software-controlled service), initiating a comparison of information by one of the components to compare release information of software controlling the service on each of the identified components when providing the identical software-controlled service (Pg. 6, Lines 11-25; Pg. 7, Lines 1-5; the system ascertains whether or not the software on a component that provides the same software-controlled service is outdated), and initiating a software update for one component when a comparison identifies that the release on said one component is different from the release on another of the components (Pg. 6, Lines 11-25; once it is determined that the software is outdated on one component, the outdated component executes the software and the download agent determines which files have been upgraded and downloads them).

2. Regarding Claim 13, Rangarajan discloses all the limitations of Claim 12 above. Rangarajan further discloses that the update is performed by sending software from a component with a more up-to-date release relative to the release on the other of the components (Pg. 7, Lines 1-5; once it is ascertained a component as an older version of the software, an upgrade agent can be downloaded to the component to monitor and update the necessary files).

3. Regarding Claim 14, Rangarajan discloses all the limitations of Claim 12 above. Rangarajan further discloses that the software with a more up-to-date release is sent from a third communication component to a component with an earlier release (Pg. 3, Lines 1-5; more than one component can have the updated files).

4. Regarding Claim 15, Rangarajan discloses all the limitations of Claim 12 above. Rangarajan further discloses that the comparison of release information is repeated at

settable time intervals (Pg. 6, Lines 28-33; ascertaining whether or not the software is out of date can be set to occur at predetermined periods of time).

5. Regarding Claim 16, Rangarajan discloses all the limitations of Claim 12 above. Rangarajan further discloses that the network includes a packet-switching network (Pg. 4, Lines 11-13; any suitable network may be used, such as the internet, a packet-switching network).

6. Regarding Claim 18, Rangarajan discloses a method for providing services in a communication network (Pg. 3, Lines 1-12; Pg. 6, Lines 11-13; two or more components within a network using and providing services) comprising of providing services in the communication network with each of multiple communication components (Pg. 3, Lines 1-12; Pg. 6, Lines 11-13; two or more components within a network using and providing services), some of the components capable of providing an identical software-controlled service (Fig. 3; Pg. 3, Lines 1-12; Pg. 6, Lines 11-13; two or more components within a network using and providing the same game application), enabling the identical software-controlled service in a first of the communication components (Pg. 3, Lines 1-12; multiple components can have the same software installed and running and peer-to-peer access to certain parts or all of the storage drives), and activating or updating software pertaining to, the identical service in a second of the communication components by downloading software pertaining to the identical service from the first communication component to the second communication component (Pg. 6, Lines 11-25; once it is determined that the software is outdated on one component, the outdated component executes the software and the download agent determines which files have

been upgraded and downloads them).

7. Regarding Claim 19, Rangarajan discloses all the limitations of Claim 18 above. Rangarajan further discloses that the service is provided by the first component (Pg. 3, Lines 1-12; multiple components can have the same software installed and running and peer-to-peer access to certain parts or all of the storage drives).

8. Regarding Claim 20, Rangarajan discloses all the limitations of Claim 19 above. Rangarajan further discloses that the software pertaining to the service is sent from the first component to the second component (Pg. 6, Lines 11-25; once it is determined that the software is outdated on one component, the outdated component executes the software and the download agent determines which files have been upgraded and downloads them).

9. Regarding Claim 23, Rangarajan discloses all the limitations of Claim 18 above. Rangarajan further discloses that the first communication component initiates updates of software in the second component and in multiple other communication components (Pg. 7, Lines 1-5; once it is ascertained a component as an older version of the software, an upgrade agent can be downloaded to the component to monitor and update the necessary files).

10. Regarding Claim 24, Rangarajan discloses all the limitations of Claim 18 above. Rangarajan further discloses that the first communication component in the communication network has been provided with a most up-to-date release for operation thereon and for downloading to other components (Pg. 3, Lines 1-12; multiple

components can have the same software installed and running and peer-to-peer access to certain parts or all of the storage drives).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rangarajan in view of what is commonly known in the art at the time the pending application was filed.

11. Regarding Claim 17, Rangarajan discloses all the limitations of Claim 12 above. Although Rangarajan discloses the upgrading of software that controlled the services that the communication components provided, it does not particularly disclose that the software-controlled services consist of gateway functionality, voicemail server, and address server.

It is commonly known to one of ordinary skill in the art at the time the application was filed that a computer having the proper hardware and software can perform one or more of the functions of a gateway, voicemail server, and address server. Rangarajan discloses a method of distributing and updating software can be applied to modify the types of services that each computer in the network will provide. Having computers in a communication network that perform the functions of a gateway, voicemail server, and

address server are just various types of software and/or hardware that is used within each computer. One of ordinary skill in the art would be motivated to use a peer-to-peer network to update or install software on computers to perform the services described.

Claims 25 - 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rangarajan in view of The Gnutella Protocol Specification v0.4 (hereinafter, referenced as Gnutella).

12. Regarding Claim 25, Rangarajan discloses a method for updating a service in a packet-switching communication network (Pg. 4, Lines 11-13; any suitable network may be used, such as the internet, a packet-switching network) comprising of providing an identical software-controlled service on a first communication component and a second communication component (Pg. 3, Lines 1-12; Pg. 6, Lines 11-13; two or more components within a network using and providing services), the components communicating peer-to-peer (Pg. 10-12; peer-to-peer networking can be the communication method used), initiating a comparison by the first of the components to compare release information of the software controlling the service on at least the second components relative to software controlling the service on at least the first component (Pg. 6, Lines 11-25; Pg. 7, Lines 1-5; the system ascertains whether or not the software on a component that provides the same software-controlled service is outdated), and if the releases are different, identifying a more up-to-date release installed on one of the communication components (Pg. 6, Lines 11-25; once it is determined that the software is outdated on one component, the outdated component executes the software and the download agent determines which files have been

upgraded and downloads them), and initiating a software update by downloading the more up-to-date release from said one of the components to another component for which release information has been compared (Pg. 6, Lines 11-25; once it is determined that the software is outdated on one component, the outdated component executes the software and the download agent determines which files have been upgraded and downloads them). Rangarajan further discloses that within a peer-to-peer network each component can have access to part or all of the storage drives of another component within the network (Pg. 3, Lines 10-12). Rangarajan does not, however, specifically use the term "servent" to describe a communication component that has the functionality of a server and a client.

Gnutella discloses a decentralized peer-to-peer network with "servents" to describe components that function both as a client and a server (P. 1, Lines 2-4). These "servents" provide an interface where a user can issue and respond to search queries (Pg. 1, Lines 4 - 7). Therefore, it would have been obvious for one skilled in the art to have been motivated to have both client and server functionality in their communication components to update software files within a communication network. Using "servents" would provide the means to decentralize the location of software upgrades/updates while quickening the time to distribute the upgrades/updates to all components in the network.

13. Regarding Claim 28, Rangarajan discloses all the limitations of Claim 25 above. Rangarajan further discloses that the step of initiating a software update by downloading the more up-to-date release from said one of the components to another

component for which release information has been compared is effected by
downloading software from a third servent communication component (Pg. 3, Lines 1-12; Pg. 6, Lines 11-13; two or more components within a network using and providing the same services).

14. Regarding Claim 29, Rangarajan discloses all the limitations of Claim 25 above. Rangarajan further discloses that the comparison of the release information is repeated at settable time intervals (Pg. 6, Lines 28-33; ascertaining whether or not the software is out of date can be set to occur at predetermined periods of time).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 6,976,962; U.S. Patent 6,078,851; U.S. Appl.

2001/0027478 A1; U.S. Appl. 2001/0021948 A1; U.S. Appl. 2003/0037130; PCT Appl. WO 01/86419 A2; European Appl. EP 065330 A1.

Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tae K. Kim, whose telephone number is (571) 270-1979. The examiner can normally be reached on Monday - Friday (8:00 AM - 5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton B. Burgess, can be reached on (571) 272-3949. The fax phone number for submitting all Official communications is (703) 872-9306. The fax phone number for submitting informal communications such as drafts, proposed amendments, etc., may be faxed directly to the examiner at (571) 270-2979.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

TKK

December 4, 2007



GLENTON B. BURGESS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100